

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Joe Holcombe, *et. al.*,
Plaintiffs,

v.

United States of America,
Defendant.

Civil Action No. SA-18-CV-00555-XR
(Consolidated cases)

DEFENDANT'S DESIGNATION OF TESTIFYING DAMAGES EXPERTS

Defendant United States of America, pursuant to Fed. R. Civ. P. 26(a)(2) and the Court's Amended Scheduling Order, hereby designates the following testifying expert witnesses related to damages in the above titled and referenced case:

I. Retained Experts:

1. Evan Appelbaum, M.D.
200 Boylston Street, Suite A309
Chestnut Hill, MA 02467

Dr. Evan Appelbaum is a licensed physician specializing in cardiology. Dr. Appelbaum will provide testimony in accordance with his report regarding cardiac injuries and/or conditions of certain Plaintiffs. His report may also rebut cardiac opinions asserted by Plaintiffs' experts. These expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Appelbaum's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Appelbaum is being compensated at the rate of \$650.00 per hour for file review, \$1,100.00 per hour for attendance at deposition, and \$1,700.00 per day for attendance at trial. Dr. Appelbaum reserves the right to supplement his report if more information becomes available.

2. Steven Berkowitz, M.D.
Anschutz Medical Campus, Building 500
13001 E. 17th Place, Campus Box F546 AMC
Aurora, CO 80045

Dr. Steven Berkowitz is a board certified pediatric psychiatrist who will provide testimony in accordance with his reports regarding the psychiatric injuries and/or conditions alleged to have been suffered by the minor Plaintiffs. He will also testify with regard to usage of medication and therapies in the field of psychiatry for children, adolescents, and adults. His report may also rebut opinions asserted by Plaintiffs' experts. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Berkowitz's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Berkowitz is being compensated at the rate of \$500.00 per hour for file review, \$750.00 per hour for attendance at deposition, and \$5,000.00 per day for attendance at trial. Dr. Berkowitz reserves the right to supplement his report if more information becomes available.

3. Richard G. Bowman, M.D.
466 Bedford Road
Armonk, NY 10504

Dr. Richard G. Bowman is a certified Life Care Planner and is a board-certified physician in the field of Physical Medicine and Rehabilitation and Pain Medicine. Dr. Bowman will provide testimony in accordance with his report regarding life care plans for certain Plaintiffs. His reports also rebut certain opinions asserted by Plaintiffs' Life Care Planners. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Bowman's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Bowman is being compensated at the rate of \$500.00 per hour for file review and attendance at deposition, and \$5,000.00 per day for attendance at

trial. Dr. Bowman reserves the right to supplement his report if more information becomes available.

4. William O. Brant, M.D.
1943 E 1700 S.
Salt Lake City, UT 84108

Dr. William O. Brant is a licensed physician specializing in Urology. Dr. Brant will provide testimony in accordance with his report regarding urological injuries and/or conditions alleged to have been suffered by Plaintiffs Juan Macias and Kris Workman. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Brant's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Brant is being compensated at the rate of \$700.00 per hour for file review, \$800.00 per hour for attendance at deposition, and \$1,000.00 per hour for attendance at trial. Dr. Brant reserves the right to supplement his report if more information becomes available.

5. Jennifer Canter, M.D.
466 Bedford Rd.
Armonk, NY 10504

Dr. Jennifer Canter is a pediatrician and physician Life Care Planner. Dr. Canter will provide testimony in accordance with her reports regarding life care plans for certain Plaintiffs. Her reports also rebut certain opinions asserted by Plaintiffs' Life Care Planners. Her expert opinions are based on her skill, knowledge, training, education, and professional judgment. Dr. Canter's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Canter is being compensated at the rate of \$500.00 per hour for file review and attendance at deposition, and \$5,000.00 per day for attendance at

trial. Dr. Canter reserves the right to supplement her report if more information becomes available.

6. Julio Chalela, M.D.
Medical University of South Carolina
96 Johnathan Lucas St.
Suite 307 CSB
Charleston, SC 29425

Dr. Julio Chalela is a Board Certified Neurologist. Dr. Chalela will provide testimony in accordance with his report regarding neurological injuries and/or conditions of certain Plaintiffs. His reports may also rebut opinions asserted by Plaintiffs' experts. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Chalela's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Chalela is being compensated at the rate of \$500.00 per hour for file review and attendance at deposition, and a flat rate of \$8,000.00 for attendance at trial. Dr. Chalela reserves the right to supplement his report if more information becomes available.

7. Christopher S. Cooper, M.D.
4707 Canterbury Court
Iowa City, IA 52245

Dr. Christopher D. Cooper is a Board Certified Pediatric Urologist. Dr. Cooper will provide testimony in accordance with his report regarding urologic injuries suffered by Ryland Ward. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Cooper's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Cooper is being compensated at the rate of \$750.00 per hour for file review, \$4000 per day for attendance at deposition, and \$8,500.00 a day for attendance at trial. Dr. Cooper reserves the right to supplement his report if more information becomes available.

8. Michael J. Kosnett M.D.
4495 Hale Parkway, Suite 301
Denver, CO 80220

Dr. Michael J. Kosnett is a Board Certified Toxicologist. Dr. Kosnett will provide testimony in accordance with his reports regarding any lead poisoning and lead toxicity suffered by certain Plaintiffs. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Kosnett's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Kosnett is being compensated at the rate of \$630.00 per hour for file review and attendance at trial and \$2,800.00 per day for attendance at deposition. Dr. Kosnett reserves the right to supplement his report if more information becomes available.

9. Samuel M. Lundstrom, Ph.D.
600 Longwater Drive, Suite 104
Norwell, MA 02061

Dr. Samuel M. Lundstrom will provide testimony in accordance with his reports regarding the economic damages alleged to have been suffered by Plaintiffs. His reports also rebut certain opinions asserted by Plaintiffs' experts. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Lundstrom's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Lundstrom is being compensated at the rate of \$825.00 per hour for file review, attendance at deposition and attendance at trial. Dr. Lundstrom reserves the right to supplement his report if more information becomes available.

10. Amy MacKenzie, Ph.D.
110 N. College Ave., #1118
Tyler, TX 75702

Dr. Amy MacKenzie is a Certified Life Care Planner. Dr. MacKenzie will provide testimony in accordance with her report regarding life care plans for certain Plaintiffs. Her reports also rebut certain opinions asserted by Plaintiffs' Life Care Planners. Her expert opinions are based on her skill, knowledge, training, education, and professional judgment.

Dr. MacKenzie's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. MacKenzie is being compensated at the rate of \$275.00 per hour for file review, attendance at deposition and attendance at trial.

Dr. MacKenzie reserves the right to supplement her report if more information becomes available.

11. Benzel MacMaster, M.D.
8220 Walnut Hill Lane
Suite 310
Dallas, TX 75231

Dr. Benzel MacMaster is a Board Certified Orthopedic Surgeon. Dr. MacMaster will provide testimony in accordance with his report regarding orthopedic injuries and/or conditions suffered by certain Plaintiffs. His report may also rebut certain opinions asserted by Plaintiffs' orthopedic experts. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. MacMaster's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. MacMaster is being compensated at the rate of \$600.00 per hour for file review, \$1,000.00 per hour for attendance at deposition and \$5,000.00 per day for attendance at trial. Dr. MacMaster reserves the right to supplement his report if more information becomes available.

12. Brian P. Marx, Ph.D.
150 South Huntington Ave.
Boston, MA 02130

Dr. Brian P. Marx, the Deputy Director of the Behavioral Science Division for the National Center for Post-Traumatic Stress Disorder, will provide testimony in accordance with his reports regarding the psychological injuries and/or conditions alleged to have been suffered by certain Plaintiffs. Additionally, these reports may include rebuttals of certain opinions asserted by Plaintiffs' experts. His expert opinions are based on his assessment of the Plaintiffs, and his skill, knowledge, training, education, and professional judgment. Dr. Marx's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Marx is being compensated at the rate of \$400.00 per hour for file review, attendance at deposition and attendance at trial. Dr. Marx reserves the right to supplement his report if more information becomes available.

The following 9 experts are designated as testifying experts in their own right, but are part of Dr. Marx's assessment team. They have conducted assessments of various Plaintiffs and will provide reports regarding those assessments. Those reports are written under the guidance and assistance of Dr. Marx. Those assessments were also conducted in accordance with the protocols developed by Dr. Marx.

12(a). Anthony Annunziata, Ph.D.
150 South Huntington Ave., 116B-4
Boston, MA 02130

Dr. Anthony Annunziata is a clinical psychologist. Dr. Annunziata will provide testimony in accordance with his assessments/reports regarding the psychological damages alleged to have been suffered by certain Plaintiffs. His expert opinions are based on his assessment of certain Plaintiffs, and his skill, knowledge, training, education, and professional judgment.

Dr. Annunziata's expert opinions, supporting documents, CV, and list of testimony and

depositions for the last four years will be provided. Dr. Annunziata is being compensated at the rate of \$250.00 per hour for file review and \$350.00 per hour for attendance at deposition and attendance at trial. Dr. Annunziata reserves the right to supplement his report if more information becomes available.

12(b). Stephanie Larew, Ph.D.
150 South Huntington Ave., 13B-56
Boston, MA 02130

Dr. Stephanie Larew is a clinical psychologist. Dr. Larew will provide testimony in accordance with her assessments/reports regarding the psychological damages alleged to have been suffered by certain Plaintiffs. Her expert opinions are based on her assessment of certain Plaintiffs, and her skill, knowledge, training, education, and professional judgment. Dr. Larew's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Larew is being compensated at the rate of \$200.00 per hour for file review and \$300.00 per hour for attendance at deposition and attendance at trial. Dr. Larew reserves the right to supplement her report if more information becomes available.

12(c). Nikki Frousakis, Ph.D.
5901 E 7th Street
Long Beach, CA 90822

Dr. Nikki Frousakis is a clinical psychologist. Dr. Frousakis will provide testimony in accordance with her assessments/reports regarding the psychological damages alleged to have been suffered by certain Plaintiffs. Her expert opinions are based on her assessment of certain Plaintiffs, and her skill, knowledge, training, education, and professional judgment. Dr. Frousakis' expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Frousakis is being compensated at the rate of \$250.00 per hour for file review and \$350.00 per hour for attendance at deposition and attendance at trial. Dr. Frousakis reserves the right to supplement her report if more information becomes available.

12(d). Kelly Harper, Ph.D.
150 South Huntington Ave.
Boston, MA 02130

Dr. Kelly Harper is a clinical psychologist. Dr. Harper will provide testimony in accordance with her assessments/reports regarding the psychological damages alleged to have been suffered by certain Plaintiffs. Her expert opinions are based on her assessment of certain Plaintiffs, and her skill, knowledge, training, education, and professional judgment. Dr. Harper's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Harper is being compensated at the rate of \$200.00 per hour for file review and \$300.00 per hour for attendance at deposition and attendance at trial. Dr. Harper reserves the right to supplement her report if more information becomes available.

12(e). Daniel Lee, Ph.D.
150 South Huntington Ave., 116B-4
Boston, MA 02130

Dr. Daniel Lee is a clinical psychologist. Dr. Lee will provide testimony in accordance with his assessments/reports regarding the psychological damages alleged to have been suffered by certain Plaintiffs. His expert opinions are based on his assessments of certain Plaintiffs, and his skill, knowledge, training, education, and professional judgment. Dr. Lee's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Lee is being compensated at the rate of \$250.00 per hour for file review, attendance at deposition and attendance at trial. Dr. Lee reserves the right to supplement his report if more information becomes available.

12(f). Alexandria Miller, Ph.D.
150 South Huntington Ave.
Boston, MA 02130

Dr. Alexandria Miller is a clinical psychologist. Dr. Miller will provide testimony in accordance with her assessments/reports regarding the psychological damages alleged to have

been suffered by certain Plaintiffs. Her expert opinions are based on her assessment of certain Plaintiffs, and her skill, knowledge, training, education, and professional judgment. Dr. Miller's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Miller is being compensated at the rate of \$150.00 per hour for file review and \$250.00 per hour for attendance at deposition and attendance at trial. Dr. Miller reserves the right to supplement her report if more information becomes available.

12(g). Alora Rando, Ph.D.
150 South Huntington Ave.
Boston, MA 02130

Dr. Alora Rando is a clinical psychologist. Dr. Rando will provide testimony in accordance with her assessments/reports regarding the psychological damages alleged to have been suffered by certain Plaintiffs. Her expert opinions are based on her assessment of certain Plaintiffs, and her skill, knowledge, training, education, and professional judgment. Dr. Rando's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Rando is being compensated at the rate of \$150.00 per hour for file review and \$250.00 per hour for attendance at deposition and attendance at trial. Dr. Rando reserves the right to supplement her report if more information becomes available.

12(h). Kaitlyn Gorman Wellcome, Ph.D.
150 South Huntington Ave.
Boston, MA 02130

Dr. Kaitlyn Gorman Wellcome is a clinical psychologist. Dr. Gorman Wellcome will provide testimony in accordance with her assessments/reports regarding the psychological damages alleged to have been suffered by certain Plaintiffs. Her expert opinions are based on her assessment of certain Plaintiffs, and her skill, knowledge, training, education, and professional judgment. Dr. Gorman Wellcome's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Gorman Wellcome is

being compensated at the rate of \$150.00 per hour for file review and \$250.00 per hour for attendance at deposition and attendance at trial. Dr. Gorman Wellcome reserves the right to supplement her report if more information becomes available.

12(i). Erika Wolf, Ph.D.
150 South Huntington Ave.
Boston, MA 02130

Dr. Erika Wolf is a clinical psychologist. Dr. Wolf will provide testimony in accordance with her assessments/reports regarding the psychological damages alleged to have been suffered by certain Plaintiffs. Her expert opinions are based on her assessment of certain Plaintiffs, and her skill, knowledge, training, education, and professional judgment. Dr. Wolf's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Wolf is being compensated at the rate of \$325.00 per hour for file review, attendance at deposition and attendance at trial. Dr. Wolf reserves the right to supplement her report if more information becomes available.

13. Christopher Meyers, MRC
466 Bedford Road
Armonk, New York 10504

Mr. Christopher Meyers will provide testimony in accordance with his reports regarding vocational injuries/damages alleged to have been suffered by certain Plaintiffs. Certain reports may include opinions rebutting those asserted by Plaintiffs' experts. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Mr. Meyers' expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Mr. Meyers is being compensated at the rate of \$400.00 per hour for file review and attendance at deposition, and \$5,000.00 per day for attendance at trial. Mr. Meyers reserves the right to supplement his report if more information becomes available.

14. John E. Scarbrough, Ph.D.
127 Main Street, Building II
Ridgefield, CT 06877

Dr. John E. Scarbrough will provide testimony in accordance with his report regarding economic damages alleged to have been suffered by certain Plaintiffs. Certain reports may include opinions rebutting those asserted by Plaintiffs' experts. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Scarbrough's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Scarbrough is being compensated at the rate of \$825.00 per hour for file review, attendance at deposition and attendance at trial. Dr. Scarbrough reserves the right to supplement his report if more information becomes available.

15. James A. Scott, M.D.
429 College Avenue #441
Fort Worth, TX 76104

Dr. James A. Scott is a board certified Physical Medicine and Rehabilitation physician. Dr. Scott will provide testimony in accordance with his report regarding rehabilitation potential and rehabilitation-related damages and/or conditions of certain Plaintiffs. His reports may also include rebuttal opinions to those asserted by Plaintiffs' experts. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Scott's expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Scott is being compensated at the rate of \$500.00 per hour for file review and \$2,500.00 for the first two hours and \$1,000 per each additional hour for attendance at deposition and \$6,000.00 per day for attendance at trial. Dr. Scott reserves the right to supplement his report if more information becomes available.

16. Greg Thwaites, Ph.D.
2001 70th Ave, Ste 205
Greeley, CO 80634

Dr. Greg Thwaites is a clinical neuropsychologist. Dr. Thwaites will provide testimony in accordance with his report regarding neuropsychological injuries and/or conditions of certain Plaintiffs. His reports may also include rebuttal opinions to those asserted by Plaintiffs' experts. His expert opinions are based on his skill, knowledge, training, education, and professional judgment. Dr. Thwaites' expert opinions, supporting documents, CV, and list of testimony and depositions for the last four years will be provided. Dr. Scott is being compensated at the rate of \$450.00 per hour for file review and \$475.00 per hour for attendance at deposition and attendance at trial. Dr. Thwaites reserves the right to supplement his report if more information becomes available.

II. Non-Retained Experts:

Defendant reserves the right to designate and call any experts Plaintiffs have designated for the limited purpose of eliciting favorable admissions at trial, either by deposition or in person.

III. Other Reservations

Descriptions provided are not intended to be an exhaustive list of the areas to be addressed by the expert.

Defendant reserves the right to call rebuttal witnesses who are not designated and whose testimony cannot be reasonably foreseen until the presentation of the evidence against the Defendant.

Respectfully submitted,

GREGG N. SOFER
United States Attorney

By: /s/ James E. Dingivan

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Certificate of Service

I do hereby certify that on November 6, 2020, I electronically filed this document with the Clerk of Court using the CM/ECF system.

☒ The CM/ECF system will send notification to the following CM/ECF participant(s):

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☒ I also certify that I have electronically transmitted this document and attachments to the following:

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/s/ James E. Dingivan
James E. Dingivan
Assistant United States Attorney